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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,568	06/25/2003	Bonnie Lopez	LOPC120896	4674
26389	7590	12/16/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			PRONE, JASON D	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3724	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/606,568	Applicant(s) LOPEZ, BONNIE	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-23 is/are allowed.
- 6) ☒ Claim(s) 1,3,9-12,24,25 and 28-33 is/are rejected.
- 7) ☒ Claim(s) 2,4-8,13,26 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

It is noted that an amendment to the drawings was supposed to be submitted but when examined this drawing amendment was not present with the response. From the description of the drawing amendment, it seemed to be exactly what was required by the previous office action. However, since the actual drawing was not in the response, the same drawing objection has been made below.

Drawings

1. The drawings are objected to because in Figure 2, there are 2 occurrences of item "124". The left occurrence should be replaced with "126". Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9, 12, 25, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 9, 12, 25, and 31 are rejected due to the fact that the preamble is not congruent with the body of the claim. In other words, the scope of the preamble and the body are different. The preamble, of claims 9, 12, 25, and 31, discloses a "sandpaper dispenser" however the body positively claims the first sanding pad. From the claim 1 it is clear that the first pad is on the sander. Positively claiming the first pad makes these claims indefinite because it is unclear if the sandpaper dispenser incorporates this first sanding pad. The preamble of claim 14 correctly claims the combination of the sander and the dispenser.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 12, 24, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Bourdunis (2,489,005).

In regards to 1, 3, and 12:

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Bourdunis discloses a frame (17 and 29) adapted to couple to a sander (12) having a first sanding pad (10), a second sanding pad coupled to the frame (13), a sandpaper dispensing assembly coupled to the frame and adapted to store a length of unused sandpaper (19), that the sandpaper dispensing assembly is adapted to selectively dispense the length of unused sandpaper to extend over the second sanding pad (28), that the sandpaper dispensing assembly includes a support member adapted to rotatably dispense sandpaper (19), and that the second sanding pad is disposed below the first sanding pad when the frame is coupled to the sander (10 and 13).

In regards to 24, 28, and 30:

Bourdunis discloses a frame (17 and 29) adapted to couple to a sander (12) having a first sanding pad (10), a sandpaper dispensing means for selectively dispensing sandpaper (19), that the sandpaper dispensing means is coupled to the frame (19), a second sanding pad coupled to the frame (13), that the sandpaper dispensing means is adapted to selectively dispense a length of sandpaper to extend over the second sanding pad (28), a restraining means for selectively holding sandpaper stationary relative to the frame (14), and that the restraining means is movable between a first position in which the restraining means engages the length of sandpaper to impede movement of the sandpaper relative to the frame (Fig. 2) and a second position in which the restraining means permits the sandpaper to move relative to the frame (14).

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10, 11, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourdunis in view of Anderson (6,083,091). Bourdunis discloses the invention but fails to disclose that the sandpaper dispensing assembly further comprises a tensioning system for holding the unused sandpaper in a tensioned condition relative to the frame and that the tensioning system is positionable between a first position in which the sandpaper is impeded and a second position in which the dispensing assembly is free to dispense sandpaper. Anderson teaches a tensioning system for holding the unused sandpaper in a tensioned condition relative to the frame (6 and 7) and that the tensioning system is positionable between a first position in which the sandpaper is impeded and a second position in which the dispensing assembly is free to dispense sandpaper (Fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Bourdunis with a tensioning system, as taught by Anderson, to prevent unwanted dispensing.

9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourdunis in view of Marinsky (2,447,518). Bourdunis discloses the invention but fails to disclose that the restraining means includes a cutting surface. Marinsky teaches a restraining means that includes a cutting surface (37). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided

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Bourdunis with a cutting surface, as taught by Marinsky, to dispose of unwanted used sandpaper.

Allowable Subject Matter

10. Claims 2, 4-8, 13, 26, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 9, 25, and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 14-23 are allowed. Claim 14 is allowable because the combination of the sander and the dispenser incorporate a frame that is adapted to hold the sanding pad a predetermined distance away from the moving portion. None of the prior art incorporates the combination of a dispenser with one pad and a sander with a moving portion a predetermined distance away from the sanding pad.

Response to Arguments

13. Applicant's arguments with respect to claims 1, 3, 10-12, 24, 28-30, 32, and 33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brouty, Feeney, Barton, and Ueno.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JP
December 8, 2004



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